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Attorneys for Defendants

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

BRIAN ERSKINE, an individual,

Plaintiff,

v.

FORREST BURKE FENN, deceased; and
ZOE FENN OLD, in her capacity as Personal
Representative of the Estate of Forrest Burke
Fenn,

Defendants,

MORGAN STANLEY PRIVATE BANK,
NATIONAL ASSOCIATION,

Garnishee.

Case No. 3:23-mc-00815

**APPLICATION FOR WRIT OF
GARNISHMENT**

As attorney for defendants Forrest Burke Fenn, deceased, and Zoe Fenn Old, in her capacity as Personal Representative of the Estate of Forrest Burke Fenn (“Defendants”), I make this Application for Writ of Garnishment on Defendants’ behalf. The facts are stated as follows:

1. Defendants have a wholly unsatisfied judgment against Plaintiff Brian Erskine (“Judgment Debtor”) registered in this Court from which this Writ is being sought.

2. Judgment Debtor has made no payment whatsoever.

3. As of the date of this application, the total amount due and owing under the judgment, including interest and other statutory costs, is **\$111,994.71** consisting of:

Principal Amount of Judgment:	\$ 99,991.24
Interest as provided by 28 U.S.C. § 1961: <i>Simple interest at 5.35% per annum from December 1, 2021 through February 29, 2024</i>	\$ 12,003.47
TOTAL:	\$ 111,994.71

4. Defendants have reason to believe, and do believe, that garnishee Morgan Stanley Private Bank, National Association (“Garnishee” or “Morgan Stanley”), conducts business and maintains a place of business in Oregon.

5. Upon information and belief, Garnishee holds a checking account on behalf of Judgment Debtor.

6. Defendants request that the court issue a Writ of Garnishment to Garnishee in the form attached hereto as Exhibit A.

7. Pursuant to ORS 18.600 through ORS 18.850, along with the Writ, Defendants will also serve on Garnishee forms of Garnishee Response and Wage Exemption Calculation; and a copy of the Debt Calculation, attached hereto as Exhibits B and C, respectively.

8. At the same time Defendants serve the documents attached hereto as Exhibits A-D on Garnishee, Defendants will also mail to Judgment Debtor by certified mail, return receipt requested, at his last known address(es), a copy of the Clerk’s Certification of a Judgment to be Registered in Another District, and Judgment on Attorney Fees, entered in this case on September 21, 2023 (ECF No. 1); copies of the documents attached hereto as Exhibits A (Writ of

Garnishment) and B (Garnishee Response and Wage Exemption Calculation); the original of Exhibit C (Debt Calculation); and a Challenge to Garnishment and Notice of Exempt Property, in the form attached hereto as Exhibit D.

9. Attached hereto as Exhibit E is Defendants proposed and requested form of Order for Issuance of Writ of Garnishment (Morgan Stanley).

Dated: March 1, 2024.

DUNN CARNEY ALLEN HIGGINS & TONGUE LLP

/s/ Joshua D. Stadtler

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